

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**  
**JOHN APONTE,**

**Petitioner,**

**9:20-cv-719  
(GLS/TWD)**

**v.**

**J.E. HARPER**

**Respondent.**

**APPEARANCES:**

**OF COUNSEL:**

**FOR THE PETITIONER:**

John Aponte  
*Pro Se*  
3 Purser Place  
Apt #1  
Yonkers, NY 10705

**FOR RESPONDENT:**

HON. LETITIA JAMES  
New York State Attorney General  
28 Liberty Street  
New York, NY 10005

HANNAH S. LONG  
Assistant Attorney General

**Gary L. Sharpe**  
**Senior District Judge**

**ORDER**

The above-captioned matter comes to this court following a Report-Recommendation and Order (R&R) by Magistrate Judge Thérèse Wiley Dancks, duly filed April 11, 2022. (Dkt. No. 45.) Following fourteen days from the service thereof, the Clerk has sent the file, including any and all

objections filed by the parties herein.

No objections having been filed, and the court having reviewed the R&R for clear error, it is hereby

**ORDERED** that the Report-Recommendation and Order (Dkt. No. 45) is **ADOPTED** in its entirety; and it is further

**ORDERED** that the amended petition (Dkt. No. 9) is **DENIED** and **DISMISSED as moot**; and it is further

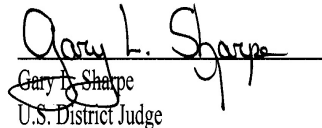
**ORDERED** that no certificate of appealability shall issue because petitioner has failed to make a “substantial showing of the denial of a constitutional right” as required by 28 U.S.C. § 2253(c)<sup>1</sup>; and it is further

**ORDERED** that the Clerk is directed to close this case; and it is further

**ORDERED** that the Clerk provide a copy of this Order to the parties in accordance with the Local Rules of Practice.

**IT IS SO ORDERED.**

May 2, 2022  
Albany, New York

  
Gary L. Sharpe  
U.S. District Judge

---

<sup>1</sup> See *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003); see also *Richardson v. Greene*, 497 F.3d 212, 217 (2d Cir. 2007) (holding that, if the court denies a habeas petition on procedural grounds, “the certificate of appealability must show that jurists of reason would find debatable two issues: (1) that the district court was correct in its procedural ruling, and (2) that the applicant has established a valid constitutional violation”).